

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 131

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## Sub-Chapter 3

## Definitions

24.131.301 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Bureau" means the business and occupational licensing bureau of the department of labor and industry.

(2) "Construction blaster" means that qualified person in charge of and responsible for the loading and firing of a construction blast.

(3) "Construction blasting" means the use of explosives to reduce, destroy, or weaken residential, commercial or other buildings; or excavate any trench, ditch, cut or hole, or reduce, destroy, weaken or cause a change in grade of any land formation in the construction of any building, highway, road, pipeline, sewerline, or electric or other utility line.

(4) "Explosives" means and includes any chemical compound or mechanical mixture that contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

(5) "Magazine" means any building or other structure, other than a factory building, used for the storage of explosives. (History: 37-72-201, 37-72-202, MCA; IMP, 37-72-101, et seq., MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; TRANS, from Commerce, 2005 MAR p. 581.)

## Subchapter 4

## General Provisions

24.131.401 PURPOSE (1) The Business and Occupational Licensing Bureau has the statutory duty to enforce the laws of Montana concerning the safety and protection of workers, and has the responsibility to license construction blasters and to promulgate rules to carry out the provisions of this statute including rules governing the use of explosives. (History: 37-72-201, 37-72-202, MCA; IMP, 37-72-101, et seq., MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; TRANS, from Commerce, 2005 MAR p. 581.)

24.131.402 FEES (1) The following fees must be paid to the bureau and are nonrefundable:

- |                        |      |
|------------------------|------|
| (a) application fee    | \$35 |
| (b) examination fee    | 25   |
| (c) license fee        | 40   |
| (d) annual renewal fee | 40   |
| (e) reexamination fee  | 35   |

(2) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-72-202, MCA; IMP, 37-1-134, 37-1-141, MCA; NEW, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.131.403 and 24.131.404 reserved

24.131.405 TRAINING PROGRAMS (1) Training programs in construction blasting must be recognized by the explosives and construction industry and approved by the bureau. The training program must offer comprehensive instruction in safe use of explosives, methods and purposes of their use, and safety procedures for storage. These training programs shall be at least 24 hours to obtain a Class 1, Class 2, or Class 3 license, and eight hours to obtain a Class 4 license, or be approved by the bureau based on content and quality of the course.

(2) The Construction Blasters Program maintains a list of approved training courses which can be obtained by contacting the Construction Blasters Program at 301 South Park, P.O. Box 200513, Helena, MT 59620-0513, or e-mail [dlibsdbla@mt.gov](mailto:dlibsdbla@mt.gov).

(3) Training courses in use of explosives that are not on the bureau's approved list will be determined to be acceptable or nonacceptable based on the bureau's judgment of content and quality of the course. (History: 37-72-202, MCA; IMP, 37-72-302, MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; AMD, 1998 MAR p. 1155, Eff. 2/13/98; TRANS, from Commerce, 2005 MAR p. 581; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.131.406 USE OF EXPLOSIVES -- INCORPORATION OF STANDARDS OF NATIONAL ORGANIZATIONS AND FEDERAL AGENCIES (1) The bureau hereby adopts and incorporates herein by reference, as they read on the effective date of this rule, the following national standards and regulations regarding the use of explosives:

(a) 29 CFR 1926.860, Selective Demolition by Explosives, Construction Safety and Health Regulations, U.S. Department of Labor, Occupational Safety and Health Administration.

(b) 29 CFR 1926.900 through 1926.914 inclusive, Blasting and the Use of Explosives, Construction Safety and Health Regulations, U.S. Department of Labor, Occupational Safety and Health Administration.

(c) 29 CFR 1910.109, Explosives and Blasting Agents, General Industry Safety and Health Regulations, U.S. Department of Labor, Occupational Safety and Health Administration.

(2) Copies of the national standards and regulations referred to in (a), (b) and (c) above, may be inspected at the Business Standards Division, 301 S. Park Avenue, P.O. Box 200513, Helena, MT 59620-0513, and obtained at cost from the U.S. Department of Labor, Occupational Safety and Health Administration, Washington, D.C. 20402. (History: 37-72-201, 37-72-202, MCA; IMP, 37-72-201, MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; TRANS, from Commerce, 2005 MAR p. 581.)

Rules 24.131.407 through 24.131.409 reserved

24.131.410 VARIANCES (1) A variance request must be as follows:

(a) The request must be on an affidavit of a licensed construction blaster who is an employee of the state of Montana or one of its political subdivisions and is requesting a variance for public work.

(b) The request must show that compliance with specific rules concerning the use of explosives would be impractical.

(c) The request must show the specific method to be utilized regarding the use of explosives and that this method will not constitute a danger to property or public safety.

(2) A variance will be granted or denied by letter to the requestor for variance after a determination is made by the bureau based on (1) above. If the variance is approved, restrictions and time of variance must be stated if applicable; and if denied, reasons for denial must be stated. The letter must be signed by the bureau chief or his designated representative.

(3) A variance request from a licensed construction blaster who is not an employee of the state of Montana or one of its political subdivisions requesting a variance for public work must be directed to the Occupational Safety and Health Administration for processing. (History: 37-72-201, 37-72-202, MCA; IMP, 37-72-201, MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; TRANS, from Commerce, 2005 MAR p. 581.)

## Subchapter 5

## Licensing

24.131.501 CONSTRUCTION BLASTER LICENSE REQUIREMENTS

(1) No person shall engage in the practice of construction blasting unless licensed or working under the supervision of a person licensed by the bureau as a construction blaster, unless specifically exempt under 37-72-201, MCA.

(2) The following construction blasters' licenses are issued:

(a) Class 1 -- construction -- blasting for all types of construction except demolition (see Class 3).

(b) Class 2 -- construction -- restricted blasting for construction with blast designs up to millisecond delay systems and single initiation source.

(c) Class 3 -- demolition -- blasting for reducing, destroying or weakening any residential, commercial or other building or structure.

(d) Class 4 -- utility -- blasting not exceeding ten pounds of explosives and generally limited to single hole, single shot applications.

(3) The bureau shall issue a construction blaster's license to each applicant who:

(a) submits a completed application form supplied by the bureau with applicable fees;

(b) meets the requirements of 37-72-301, MCA;

(c) has successfully completed a training program approved by the bureau in accordance with ARM 24.131.405;

(d) has two year's field experience in construction blasting; and

(e) achieves a grade of 80 percent or higher on an examination administered by the bureau based upon the adopted standards and regulations regarding the use of explosives.

(4) Construction blasters' licenses are not transferable and must be renewed on or before the date set by ARM 24.101.413. The provisions of ARM 24.101.408 and 24.101.414 apply.

(5) A license, certificate, or permit issued by another state or an agency of the United States will be recognized and an appropriate construction blaster's license issued if the bureau determines that the requirements are equivalent to those in 37-72-302, MCA. (History: 37-1-141, 37-72-201, 37-72-202, MCA; IMP, 37-1-131, 37-1-141, 37-72-301, 37-72-302, 37-72-304, 37-72-305, MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; AMD, 1995 MAR p. 2247, Eff. 10/27/95; AMD, 1998 MAR p. 453, Eff. 2/13/98; TRANS, from Commerce, 2005 MAR p. 581; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.131.502 through 24.131.505 reserved



24.131.506 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW CONSTRUCTION BLASTER'S LICENSE (1) The bureau may reprimand, suspend, revoke or refuse to renew the license of any person violating the provisions of 37-72-203, MCA.

(2) Upon receipt of an affidavit charging a violation of 37-72-203, MCA, the bureau shall investigate and must either make a determination that the charges are unfounded or notify the person charged within six months of the date the affidavit was filed with the bureau.

(3) Upon the finding of the bureau that the construction blaster did engage in willful conduct in violation of 37-72-203, MCA, the bureau may reprimand, suspend, revoke or refuse to renew such license. The bureau shall notify the person of the final decision in writing and include the appeal right for a contested case hearing under ARM 24.131.506(2). (History: 37-72-202, MCA; IMP, 37-72-203, MCA; NEW, 1985 MAR p. 1402, Eff. 10/1/85; TRANS, from Dept. of Labor and Industry, 1995 MAR p. 1134, Eff. 7/1/95; TRANS, from Commerce, 2005 MAR p. 581.)